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Admitted to Practice Law  
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August 3, 2022

Via ECF

Hon. Lee G. Dunst, USMJ  
United States District Court, EDNY  
100 Federal Plaza  
Central Islip, NY 11717

Re: Jonatan Barahona and Hector Hernandez v. Paradise Tree  
Service & Landscape, Corp. and William Nieto  
Venue: United States District Court, Eastern District of New York  
Civil Action No.: 2:21-cv-05400 (GRB)(LGD)

Dear Judge Dunst:

Regarding the above matter, I represent the Defendants, Paradise Tree Service & Landscape, Corp. and William Nieto. Pursuant to your Order dated August 2, 2022, I am hereby responding to Plaintiff's Letter Motion dated August 1, 2022. Please allow this letter to serve as opposition to Plaintiff's Letter Motion and as an application from Defendant to sanction Plaintiff's counsel for deliberately making false representations to this Court and engaging in practice in violation of the Federal Rules as well as this Court's Rules.

In summary, Plaintiff's counsel is attempting to deceive this Court by intentionally making false representations as to what occurred in this matter in the past week. Specifically, Counsel states in the last paragraph of his letter, "Last week, I wrote to the Defendants of our desire to accelerate the date for selection of the mediator. We have not received a response to this specific request."

In fact, none of that is true. Plaintiff's counsel never wrote me and expressed his desire to accelerate the date for mediator selection. The opposite is true. Plaintiff's counsel wrote me and expressed his desire to extend the date when mediation would be completed. It is also untrue that I did not respond.

On Thursday, July 28, 2022, plaintiff's counsel, without any prior discussion with me, emailed me a draft of a letter he wished to send to the Court requesting an extension of the date to complete mediation from September 30, 2022 to October 31, 2022. See copy attached of Plaintiff's letter attached hereto.

The next morning, Friday, July 29, 2022, I replied to Plaintiff's email. I suggested we speak about his letter and my intention to file summary judgment motions at the same time. Plaintiff responded and said he was available to speak no later than 1pm that day, Friday, July 29, 2022. I replied it would be difficult and suggested we speak Monday (August 1, 2022) Afternoon. He replied by suggesting we do it that same day and he would make himself available at any time. This coming just moments after he told me he couldn't speak after 1pm. I had already suggested Monday afternoon, the next business day, but never heard back from him. Attached hereto is the email string between Plaintiff and I, on July 29, 2022.

On Monday, August 1, 2022, at 10:42 a.m., Plaintiff's counsel called my cell phone and left a voice message. The message stated I could call him back any time before 12 p.m. or after 2 p.m. that day. See screenshot of my cell phone voicemail box on August 1, 2022. Despite Plaintiff's representations in his voicemail, Plaintiff filed his Letter Motion at 11:43 a.m. that day; not even affording me the full opportunity to call him back before Noon or any opportunity to call him back after 2 p.m. Furthermore, in my emails on Friday, I suggested speaking Monday afternoon; that day. But counsel did not wait until then.

Today, August 3, 2022, I called Plaintiff's Attorney at 1:15 p.m., in an attempt to resolve this issue again. I explained I was working on a Memorandum of Law for a State Court action and suggested we extend the date to choose the mediators to August 19, 2022. He refused. Not granting any courtesies and not having any good reason. He indicated maybe if I allow him to do a deposition of my client before I file motions for summary judgment. I asked again if he would agree to stipulate to extend the date to August 19, 2022 and he refused. It was then I realized that it wasn't about any date.

I respectfully request the Plaintiff's Counsel be sanctioned for intentionally attempting to deceive the Court by intentionally being untruthful about my actions and his. I respectfully request the court dates issued for selecting mediators and completing mediation, remain as they are scheduled. I respectfully request Plaintiff's counsel's privilege to file Letter Motions in this matter be suspended until further order of this Court. Thank you.

Respectfully submitted,



Glenn J. Ingoglia

c.c.: Via ECF  
Plaintiffs' Counsel  
Steven J. Moser, Esq.